

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

v.

COREPHOTONICS, LTD.,
Patent Owner

Case IPR2018-01133
U.S. Patent No. 9,538,152

PATENT OWNER'S NOTICE OF APPEAL

Office of the General Counsel
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Submitted Electronically via the PTAB E2E System

Pursuant to 35 U.S.C. §§ 141, 142, and 319, and in accordance with 37 C.F.R. §§ 90.2-90.3, Patent Owner Corephotonics, Ltd. (“Corephotonics”) hereby appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (“Board”) entered on December 2, 2019, in IPR2018-01133 (Paper No. 34) (“Final Written Decision”) and the Order denying Corephotonics’ request for Director Review entered on October 15, 2021, in the same IPR (Paper No. 37) (the “Order”), which made the Final Written Decision the final decision of the agency in this matter, and from all underlying findings, determinations, rulings, opinions, orders, and decisions regarding the inter partes review of U.S. Patent No. 9,538,152 (the “’152 patent”).

Corephotonics’ request for Director Review was made pursuant to a remand by the Federal Circuit in *Corephotonics, Ltd. v. Apple Inc.*, Case No. 2020-1425.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Corephotonics states that the issues on appeal may include, but are not limited to: the Board’s determination that claims 1–4 of the ’152 patent have been shown to be unpatentable; whether the statute and regulations under which the Board and Mr. Hirshfeld made their determinations violate the Appointments Clause or other provisions of the United States Constitution or the Federal Vacancies Reform Act of 1998 or another Federal law, including, but not limited to, the Administrative Procedures Act; the Board’s consideration of the expert testimony, prior art, and other evidence in the record; the

Board's factual findings, conclusions of law, or other determinations supporting or related to those issues; any PTO processes, rules, or guidance related to Director Review, including, but not limited to, how and when it was promulgated and how and when it may be requested and conducted; the denial of Director Review here; the process and procedure for addressing IPRs and appeals after the Supreme Court's opinion in *Arthrex*, as well as all other issues decided adversely to Corephotonics in any orders, decisions, rulings, and opinions.

This Notice of Appeal is being filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit, along with payment of the required docketing fees. In addition, a copy of this Notice of Appeal is being filed simultaneously with the Patent Trial and Appeal Board.

Respectfully submitted,

Dated: November 12, 2021

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e)(1))

The undersigned hereby certifies that the above document was served on November 12, 2021, by filing this document through the Patent Trial and Appeal Board End-to-End System as well as delivering a copy via electronic mail upon the following attorneys of record for the Petitioner:

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A copy of this Notice of Appeal was also sent on November 12, 2021 by Priority Mail Express to the United States Patent and Trademark Office at the following address:

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